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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,548	08/01/2000	ANTONIUS ADRIANUS ARNOLDUS SMITS	702-001034	8364

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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-9

Office Action Summary

Application No.

09/555,548

Applicant(s)

SMITS, ANTONIUS ADRIANUS
ARNOLDUS

Examiner

J ssica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/10/02, Amendment B, paper no. 8.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21,23-29,31-33 and 37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 19-21,23-29,31-33 and 37 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This case is in response to the amendment dated 5/10/02. Claims 22, 30 and 34-36 were canceled. Claims 19-21, 23-29, 31-33 and 37 are pending.
2. The rejection of claims 19-20, 23 and 26 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Keeler et al. (of record) as set forth in the previous office action, paper no. 7, has been withdrawn due to the added limitation of the carrier being movable in a radial direction with respect to the axis of rotation.

Election/Restrictions

3. Applicant's election with traverse of Group I, claims 19-33 and 37, in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the restriction is not in accordance with MPEP Section 808. The examiner respectfully points out that Applicants canceled the non-elected claims 34-36 in the amendment dated 5/10/02 making these arguments moot. Despite the cancellation of these claims, Applicants arguments are not found persuasive because they are based on the restriction requirements set forth in MPEP Section 8, which pertain to an application that is not a 371, wherein the present application is a 371 demonstrating lack of unity as set forth in the previous office action thereby warranting restriction based on the requirements set forth in MPEP 1893.03(d).

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

4. Claim 19 is objected to because of the following informalities: delete "the" before "standstill" in line 7. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 19-21, 23, 25-26, 28-29 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keeler et al. (US 5102485; of record) in view of Voltmer et al. (US 4605459; of record).

It is noted that amended claim 19 is a combination restating all the limitations in previous claim 19 and canceled claim 22.

With respect to claim 19, Applicants are directed to paragraph 10 of the previous office action for a complete discussion of the Keeler reference. As stated in paragraph 13 of the previous office action regarding claim 22, Keeler et al. is silent as to the transfer stations (carriers) being movable in a radial direction with respect to the axis of rotation. It is known to affix objects 18 and 19 to products 20 using an affixing device 100 capable of rotary motion wherein the device comprises extendable and retractable carriers or heads 21 that move in a radial direction with respect to the axis of rotation to affix the objects to the products, as taught by Voltmer et al. (Figures 1-2; column 2, lines 15-19; column 3, lines 17-26 and 42-56; column 4, lines 26-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use extendable and retractable carriers for the transfer stations of Keeler et al. because such is known in the art, as taught by Voltmer et al., and this would bring the transfer stations having fitments thereon into direct contact with the conveyor having carton blanks thereon to ensure proper alignment of the fitments onto the carton blanks.

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Regarding claims 20, 23 and 26, Applicants are directed to paragraph 10 of the previous office action.

Regarding claims 21 and 25, Applicants are directed to paragraph 12 of the previous office action.

Regarding claims 28-29 and 31-33, Applicants are directed to paragraph 13 of the previous office action.

7. Claims 24 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keeler et al. and Voltmer et al. as applied to claim 19 above, and further in view of Utsumi (EP 035645, of record).

Regarding claims 24 and 37, Applicants are directed to paragraph 14 of the previous office action.

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keeler et al. and Voltmer et al. as applied to claim 19 above, and further in view of Voltmer et al. (GB 2188608, of record).

Regarding claim 27, Applicants are directed to paragraph 15 of the previous office action.

9. Claims 19-21, 23, 25-26, 28-29 and 31-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. '459 in view of Keeler et al. as set forth in paragraph 16 of the previous office action.

With respect to claim 19, Voltmer et al., directed to a device 100 for affixing band segments 18 and literature 19 to containers 20 moving in a row on conveyor 104, teaches transfer roll 22 (holder) and hopper 32 (holder) for holding the band segments and literature, respectively, and carousel 133 (affixing means) having suction cups 28 for holding the band

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segments and literature to heads 21 (carriers) after their removal from the transfer roll and hopper, respectively (Figure 1; column 2, lines 12-20 and 62-66; column 3, lines 1-65). The carousel is capable of rotary movement about an axis of rotation and affixing the band segments and literature to the container during this rotary movement (column 4, lines 12-55) by moving the heads in a radial direction with respect to the axis of rotation (Figure 1; column 4, lines 26-47). The reference is silent as to the heads/suction cups removing the band segments and literature from the transfer roll and hopper, respectively, the carousel being driven intermittently between rotation and standstill, and the suction cups removing a band segment or piece of literature from the transfer roll or hopper, respectively, while the carousel is at a standstill.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to actuate the suction cups during removal of the band segments and literature from the transfer roll and hopper, respectively, to aid in removing the band segments and literature because this would expedite the removal process and ensure that the band segments and literature were properly aligned with the head.

It is known to affix objects to products using an affixing apparatus capable of rotary movement wherein the apparatus is driven intermittently between rotation and standstill so that carriers located on the apparatus can remove objects from a holder during standstill, as taught by Keeler et al. (see paragraph 10 of the previous office action for a complete discussion of the Keeler reference). It would have been obvious to one of ordinary skill in the art at the time the invention was made to drive the carousel of Voltmer et al. intermittently between rotation and standstill so that the heads can remove band segments and literature from the transfer roll and hopper, respectively, during standstill because such is known in the art, as taught by Keeler et al.,

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and this would allow objects having an awkward shape such as the literature to be successfully removed from the hopper thereby increasing the output of properly assembled products during a fixed time period.

Regarding claims 20-21, 23, 25-29 and 31-33, Applicants are directed to paragraph 16 of the previous office action.

10. Claims 24 and 37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. '459 and Keeler et al. as applied to claim 19 above, and further in view of Utsumi as set forth in paragraph 17 of the previous office action.

Regarding claims 24 and 37, Applicants are directed to paragraph 17 of the previous office action.

11. Claim 27 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Voltmer et al. '459 and Keeler et al. as applied to claim 19 above, and further in view of Voltmer '608 as set forth in paragraph 18 of the previous office action.

Regarding claim 27, Applicants are directed to paragraph 18 of the previous office action.

Response to Arguments

12. Applicant's arguments filed 5/10/02 have been fully considered but they are not persuasive.

13. On page 6 of the arguments, Applicants argue that there is no provision in the Keeler patent to accommodate fitments 20 having a range of thicknesses.

The examiner respectfully points out that this argument is not commensurate with the scope of the claimed invention.

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14. On page 6 of the arguments, Applicants argue that Keeler does not teach or suggest a carrier that is moveable in a radial direction with respect to the axis of rotation.

The examiner agrees that Keeler taken alone does not teach or suggest this limitation. However, Applicants are invited to reread the 103 rejection set forth in paragraph 6 of the present office action with respect to claim 19.

15. On page 7 of the arguments, Applicants argue that the carrier of Voltmer cannot accommodate objects of varying thickness/size.

The examiner respectfully points out that this argument is not commensurate with the scope of the claimed invention.

16. On page 7 of the arguments, Applicants argue that the carrier of Voltmer is radially extended to secure the band segments and literature to the containers 20 but the reference does not teach or suggest radially extending the carrier to receive the band segments and literature and therefore cannot accommodate objects of various sizes.

The examiner respectfully point out that is argument is not commensurate with the scope of the claimed invention. Present claim 19 only states that the carrier is movable in a radial direction with respect to the axis of rotation, which is clearly taught by Voltmer et al., and says nothing about the carrier being radially extended when it receives the objects. Even if such was claimed, the examiner respectfully points out that the material worked upon (i.e. objects) gets no weight in the apparatus and hence the manner in which the apparatus cooperates with the material worked upon gets no weight in the apparatus.

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Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **703-305-5419**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jessica L. Rossi
Patent Examiner
Art Unit 1733



jl
June 18, 2002



Michael W. Ball
Supervisory Patent Examiner
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